

DENNIS J. HERRERA, State Bar #139669  
City Attorney  
KRISTEN A. JENSEN, State Bar #130196  
THOMAS S. LAKRITZ, State Bar #161234  
VICTORIA WONG, State Bar #214289  
Deputy City Attorneys  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, California 94102  
Telephone: (415) 554-6547  
Facsimile: (415) 554-4747  
E-Mail: tom.lakritz@sfgov.org

Attorneys for Defendant  
CITY AND COUNTY OF SAN FRANCISCO

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

METRO FUEL LLC, a Delaware limited liability company,

Plaintiff.

vs.

CITY OF SAN FRANCISCO, a municipal corporation, COUNTY OF SAN FRANCISCO, a subdivision of the State of California, CITY AND COUNTY OF SAN FRANCISCO, a chartered California city and county and DOE 1 through DOE 10,

## Defendants.

Case No. C07-6067 JSW

## **STIPULATION AND PROPOSED ORDER**

1        WHEREAS, on May 8, 2008, the parties filed a stipulation and proposed order informing the  
 2 Court that the parties were exploring a stay of the present litigation (Plaintiff Metro Fuel's agreement  
 3 to stay the litigation was conditioned on Defendant City and County of San Francisco's agreement to  
 4 stay enforcement of local ordinances at issue in the present litigation); and

5        WHEREAS, on May 9, 2008, the Court adopted the parties' proposed order and vacated the  
 6 Court's April 17, 2008 order setting a briefing schedule on Defendant City and County of San  
 7 Francisco's Motion to Dismiss and the June 20, 2008 hearing date; and

8        WHEREAS, since May 9, 2008, the parties have conducted extensive negotiations in an  
 9 attempt to reach an agreement on staying enforcement of local ordinances at issue in the present  
 10 litigation. Unfortunately, were no able to reach an agreement by May 23, 2008; and

11       WHEREAS, on May 23, 2008, the parties filed a stipulation and proposed order informing the  
 12 Court that the parties were exploring a stay of the present litigation; and

13       WHEREAS, Defendant City and County of San Francisco filed an Answer to Plaintiff Metro  
 14 Fuel's Amended Complaint and Demand for Jury Trial by Friday, May 30, 2008; and

15       WHEREAS, counsel for Plaintiff Metro Fuel and the City Attorney's Office have agreed upon  
 16 the terms of proposal to stay the present litigation pending a decision by the Ninth Circuit in *Metro*  
 17 *Lights, L.L.C. v. City of Los Angeles*, 488 F.Supp.2d 927 (C.D. Cal. 2006), *appeal docketed*, No. 07-  
 18 55179 (9<sup>th</sup> Cir. Feb. 1, 2007) and *Metro Lights, L.L.C. v. City of Los Angeles* No. 04-1037, 2006 WL  
 19 4941839 (C.D. Cal. Nov. 3, 2006), *appeal docketed*, No. 07-55207 (9<sup>th</sup> Cir. Feb. 9, 2007), which  
 20 includes the City and County of San Francisco's agreement to stay enforcement of local ordinances at  
 21 issue in the present litigation; and

22       WHEREAS, counsel for Plaintiff Metro Fuel and the City Attorney's Office need to obtain  
 23 approval of the proposal to stay the litigation from their respective clients. Counsel for Plaintiff  
 24 Metro Fuel and the City Attorney's Office will notify the Court no later than Wednesday, June 11,  
 25 2008, that their respective clients have approved the proposal to stay the litigation.

26        //

27        //

28        //

1 NOW, THEREFORE, it is hereby STIPULATED and AGREED as follows:

2 1. The parties shall file a joint statement by June 11, 2008, informing the Court whether  
3 they have agreed to a stay of this litigation.

4  
5  
6 DATED: June 6, 2008

DENNIS J. HERRERA  
7 City Attorney

8 By: /s/  
9 THOMAS S. LAKRITZ

10 Attorneys for Defendant CITY AND COUNTY OF  
11 SAN FRANCISCO

12  
13 DATED: June 6, 2008

EMERY CELLI BRINCKERHOFF & ABADY LLP

14 By: /s/  
15 ERIC HECKER

16 Attorneys for Plaintiff METRO FUEL, LLC

17  
18 IT IS SO ORDERED:

19  
20 DATED: June 9, 2008

21 By: Jeffrey S. White  
22 THE HONORABLE JEFFREY S. WHITE